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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/805,888
Filing Date: March 27, 2003
Appellant(s): WINTER, ROBERT WILLIAM

Robert W. Winter

Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 2, 2008, appealing from the Office action mailed March 3, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

Claims 1-2, 4-29, and 31-40 are pending in this application and were finally rejected in the Office Action mailed on March 3, 2008.

Claims 1-2, 4-29, and 31-40 are the subject of this appeal.

(4) Status of Amendments

The appellant's statement of the status of amends contained in the brief is correct.

(5) Summary of Claimed Subject Matter

It is noted that, according to MPEP 1205.02 [R-3] which states that "**An exception** to the requirement that all the items specified in 37 CFR 41.37(c)(1) be included in the brief is made if the application or reexamination proceeding is

being prosecuted by the appellant **pro se**, i.e., there is no attorney or agent of record, and the brief was neither prepared nor signed by a registered attorney or agent. The brief of a pro se appellant which does not contain all of the items, (i) to (x), specified in 37 CFR 41.37(c)(1) will be accepted **as long as it substantially complies with the requirements of items (i) through (iv) and (vii) through (x)**", "Summary of Claimed Subject Matter" is not required in this appeal brief which is submitted by the appellant pro se.

(6) Grounds of Rejections to be Reviewed on Appeal

It is noted that, according to MPEP 1205.02 [R-3] which states that "**An exception** to the requirement that all the items specified in 37 CFR 41.37(c)(1) be included in the brief is made if the application or reexamination proceeding is being prosecuted by the appellant **pro se**, i.e., there is no attorney or agent of record, and the brief was neither prepared nor signed by a registered attorney or agent. The brief of a pro se appellant which does not contain all of the items, (i) to (x), specified in 37 CFR 41.37(c)(1) will be accepted **as long as it substantially complies with the requirements of items (i) through (iv) and (vii) through (x)**", "Grounds of Rejections to be Reviewed on Appeal" is not required in this appeal brief which is submitted by the appellant pro se.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Appellant submitted an article written and published on the Web by the Appellant in July 2004, which is titled "BREAKING THROUGH WALLS: Realizing the Internet's Potential - From Politics to the Arts". Said article is not permitted in the brief. MPEP 1205.02 [R3] states that "(ix) Evidence appendix. An appendix containing copies of any evidence submitted pursuant to 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. **Reference to un-entered evidence is "permitted" in the brief.**"

It is noted that date of publication of the above-cited article by the Appellant is July 2004, which is after the effective file date of the application which is March 27, 2003.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 28-29 and 31-40 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 28-29, and 31-37 are directed to a system for identifying content in a computer network. According to the specification, said system software per se. Paragraph 0028 of the specification recites "*The method and system of the present invention provide means for users to find material on a computer network, such as the Internet, based on standardized categories being applied to particular items by recognizable persons and organizations*". Additionally, Figures 2, 3, 4, and 5 of the specification of the claimed invention are directed to a software system per se. As such, said system recited in claim 28 is software per se and does not fall with the four statutory categories. Therefore, claims 28-37 are rejected under 35 U.S.C. 101 because the claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. Particularly, Claim 28 recites a system of software. As such Claim 38-37 are software per se., and fails to fall within a statutory category. The claims are, at best, functional descriptive material *per se*.

Similarly, Claims 38-40 are directed to a system for categorizing an item to be searched by a user in a computer network. According to the specification, said system software per se. Paragraph 0028 of the specification recites "*The method and system of the present invention provide means for users to find material on a computer network, such as the Internet, based on standardized categories being applied to particular items by recognizable persons and organizations*". Additionally, Figures 2, 3, 4, and 5 of the specification of the claimed invention are directed to a software system per se. As such,

said system recited in claim 38 is software per se and does not fall with the four statutory categories. Therefore, claims 38-40 are rejected under 35 U.S.C. 101 because the claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. Particularly, Claim 38 recites a system of software. As such Claim 38-40 are software per se., and fails to fall within a statutory category. The claims are, at best, functional descriptive material *per se*.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "a substantially short time" in claim 7 line 4 is a relative term which renders the claim indefinite. The term "substantially short time" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims, 1, 4-6, 14, 15, 19-23, 28-29, 31-33, and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Covington JR et al., (hereinafter "Covington", U.S. Patent Application Publication Number 2003/0009448) in view of Pundarika et al., (hereinafter, "Pundarika", U.S. Patent Application Publication Number 2003/0043144) and further in view of Montemer (U.S. Patent Application Publication Number 2004/0010518).

As per claim 1 Covington is directed to a method for identifying content in a computer network (Paragraph 0001) and teaches the limitations:

"storing a plurality of predetermined categories in a database" (Covington Paragraph 0047, i.e., *In one embodiment of the invention, Database Reviewer **adds additional categories***);

"categorizing a plurality of pre-existing items corresponding to one or more of the plurality of predetermined categories, by a plurality of categorizers, respectively" (Covington Paragraph 0047, i.e., *the Database Reviewers may categorize the information in such manner that any search term concerning sexual harassment would yield the newly created information.*; and Covington Paragraph 0047, i.e., *In one embodiment of the invention, Database Reviewer **adds additional categories** and structures to the proposed database prior to adding the new information to the database*) "wherein a subsequent categorizer is capable of categorizing an item already categorized by an early categorizer" (Covington, Paragraph 0044, i.e., *In another embodiment, after reviewing the existing information, the Database Manager can decide to **replace** the existing information with new information. In this embodiment, the Database Manager can **update** the database by **removing** the out-dated information and replacing it with new data. In a further embodiment, the Database Manager may determine that the information in the database should be **revised** in parts to reflect the certain changes in the existing information. In this embodiment, the Database Manager can take the necessary steps to **revise** the available information accordingly. In yet another embodiment, the Database Managers may elect to include the new information in a new database; Covington, Paragraph 0046, i.e., *Should the proposed information fail to satisfy formal requirements, the Database Manager can either **revise** the**

proposed information or return the same to the Database Manager for revision. This is reflected by the broken line between steps 3400 and 3300; Covington, Paragraph 0047, i.e., Database Manager can then categorize any information, new or old. Categorization enables a User to retrieve the information from the database once it is added to the database; Here, database reviewer is the early categorizer and database manager is the subsequent categorizer);

*"displaying at least a portion of the stored plurality of predetermined categories" (Covington, Paragraph 0045, i.e., the Database Manager can, either directly or through an agent or software, prepare a **Web site containing the relevant information and post the Web site** in the database enabling User's access; Covington, Paragraph 0047, i.e., The Database Reviewer can also provide additional information which would correlate the record with other pertinent records. For example, the Database Reviewer or the Database Manager can identify similarly **categorized** or otherwise related information records that may be of interest to the User based on the User's inquiry. Accordingly, such techniques as cross referencing other information records or **providing hypertext links** to other information records can be used to advise the User of additional information);*

"displaying results of search on a display" (Covington Paragraph 0023, i.e., the system can provide a user with a web page containing a brief abstract of each piece of relevant information record);

"selecting one or more of the displayed results for more detail description of the selected item" (Covington, Paragraph 0023, i.e., the system can provide the user with a

*web page containing a brief abstract of each piece of relevant information record and providing a **hypertext link to each record**); and*

*“(sharing the incentive among) the early categorizer and the subsequent categorizer whose subsequent categorization is base on the categorization of the early categorizer” (Covington, Paragraph 0044, i.e., *In another embodiment, after reviewing the existing information, the Database Manager can decide to **replace** the existing information with new information. In this embodiment, the Database Manager can **update** the database by **removing** the out-dated information and replacing it with new data. In a further embodiment, the Database Manager may determine that the information in the database should be **revised** in parts to reflect the certain changes in the existing information. In this embodiment, the Database Manager can take the necessary steps to **revise** the available information accordingly. In yet another embodiment, the Database Managers may elect to include the new information in a new database; Covington, Paragraph 0046, i.e., *Should the proposed information fail to satisfy formal requirements, the Database Manager can either **revise** the proposed information or return the same to the Database Manager for revision. This is reflected by the broken line between steps 3400 and 3300; Covington, Paragraph 0047, i.e., Database Manager can then categorize any information, new or old. Categorization enables a User to retrieve the information from the database once it is added to the database; Here, database reviewer is the early categorizer and database manager is the subsequent categorizer).***

Covington does not explicitly teach the limitations: "selecting a category from the displayed predetermined categories by a user", "displaying categorizers for the selected category", "selecting a categorizer from the displayed categorizers by the user", "initiating a search for one or more pre-existing items in the computer network based on the selected category and the selected categorizer as search parameters", "providing incentives to one or more categorizers based on the number of users who have selected an item categorized by the one or more categorizers", and "sharing the incentives (the early categorizer and the subsequent categorizer whose subsequent categorization is base on the categorization of the early categorizer) and allocating the incentive between the early categorizer and the subsequent categorizer". (*Note that limitations in the parenthesis are taught by Covington but included for the sake of easy reading*).

On the other hand, Pundarika teaches the limitations:

"selecting a category from the displayed predetermined categories by a user"
(Pundarika, Paragraph 0017, i.e., *Illustration 1 schematically depicts an embodiment of a method for simulating experiencing a store in three dimensions on a two-dimensional computer screen*; Pundarika, Paragraph 0017, i.e., *For example, the hundreds of books the visitor sees as he enters a bricks and mortar store are **organized into categories** and groupings, making it easy for **the visitor to go straight to the section** he wants to browse. The visitor can discover the books as he browses through the shelves and can thumb through the books he picks up from the shelves*) ;

"displaying categorizers for the selected category" (Pundarika, Paragraph 0043, i.e., *Alternately, a list of reviewers organized in various ways (geographic, male/female, types of books reviewed etc.) is displayed (step 550) and the visitor's choice of the specific reviewer is collected (step 560)*; Note that geographic, male/female, type of books reviewed are "categories" from which the user selects a category and then a specific viewer);

"selecting a categorizer from the displayed categorizers by the user" (Pundarika, Paragraph 0043, i.e., *FIG. 5 describes an embodiment of the invention that includes a method for **allowing selection of book reviews by specific reviewers**. The selected book is displayed (step 510) and a choice of available book reviews is displayed as in FIG. 4. The information on the user's selection of a desired review is collected (step 520) and the audio of the selected review is streamed or otherwise transmitted to the user machine (step 530). The portion of viewing other books reviewed by the same reviewer is displayed (step 540) which, if selected, moves the process on to step 570. Alternately, a list of reviewers organized in various ways (**geographic, male/female, types of books reviewed etc.**) is displayed (step 550) and the visitor's choice of the specific reviewer is collected (step 560)*))

"initiating a search for one or more pre-existing items in the computer network based on the selected category and the selected categorizer as search parameters" (Pundarika, Paragraph 0043, i.e., *Alternately, a list of reviewers organized in various ways (**geographic, male/female, types of books reviewed etc.**) is displayed (step 550) and the visitor's choice of the specific reviewer is collected (step 560)).*

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method of Covington to add the features of "selecting a category from the displayed predetermined categories by a user", "displaying categorizers for the selected category", "selecting a categorizer from the displayed categorizers by the user", and "initiating a search for one or more pre-existing items in the computer network based on the selected category and the selected categorizer as search parameters", as taught by Pundarika, to the method of Covington so that the resultant method would comprise the steps of "selecting a category from the displayed predetermined categories by a user", "displaying categorizers for the selected category", "selecting a categorizer from the displayed categorizers by the user", and "initiating a search for one or more pre-existing items in the computer network based on the selected category and the selected categorizer as search parameters". One would have been motivated to do so in order to allow selection of reviews by specific reviewers (Pundarika, Paragraph 0043).

Covington in view of Pundarika teaches the limitation: (sharing the incentive among) the early categorizer and the subsequent categorizer whose subsequent categorization is base on the categorization of the early categorizer" (Covington, Paragraph 0044; Covington, Paragraph 0046; Covington, Paragraph 0047).

Covington in view of Pundarika does not explicitly teach the limitations:

"providing incentive to one or more categorizers based on a number of users who have selected an item categorized by the one or more categorizers" and "sharing the incentive among (the early categorizer and the subsequent categorizer whose

subsequent categorization is based on the categorization of the early categorizer)" and "allocating the incentive between (the early categorizers and the subsequent categorizer)". Limitations in the parenthesis are taught by Covington in view of Pundarika as discussed above.

On the other hand, Montemer teaches the limitations:

"providing incentive to one or more categorizers based on a number of users who have selected an item categorized by the one or more categorizers" (Montemer, Paragraph 0028, i.e., *each of the shared directory listing*; Montemer, Figure 1, i.e., *shared directories*; Montemer Paragraph 0034, i.e., *FIG. 2 illustrates how the directory listings of an individual EDA Center can be pooled together with the listings from other EDA Center entities or EDA nodes. Then the books reviewed by the specific reviewer are brought in from the database and displayed in categorized shelves (similar to displaying the results of a book search) (step 570). All the services associated with the books are linked to these books in the shelves (step 580), whereupon the user can browse any of these books and listen to the reviews by the selected reviewer or by other reviewers that he may choose*; Montemer, Paragraph 0032, i.e., *The final result of an EDA inquiry is a telephone referral. In the referral, the inquiry call is transferred to the **selected advertised directory listing** referral number and a **referral business transaction is initiated***. Montemer, Figure 3 and Paragraph 0042, i.e., *Tables 62, 64, and 66 show the top 3 listings (sorted by paid referral amount) for the keyword Chinese restaurant for each EDA center. In other words, table 62 shows that listing A1 is first at \$1.20, followed by listing A2 at \$0.93 and A3 at \$0.75. Similarly table 64 shows Center*

B's top 3 to be B1 at \$0.97, B2 at \$0.87 and B3 at \$0.77. Table 66 shows Center C's list as C1 at \$1.10, C2 at \$0.83 and C3 at \$0.72; Montemer, Paragraph 0048, i.e., a Referral Business Transaction 88 and Paragraph 0049, i.e., a Debit Transaction 90 on the Listing Owner's account; These disclosures of Montemer teaches (1) EDA centers as depicted in Figure 2 and their directory listings in Figure 3 are "categorizers" because said centers categorizes business phone numbers according to the type of business and (2) said centers (categorizers) are paid on per referral basis for each call from a customer (referral). Therefore, said centers (categorizers) are paid based on the number of customers (users) who use their respective listings (business categories));

*and "sharing the incentive among (the early categorizer and the subsequent categorizer whose subsequent categorization is based on the categorization of the early categorizer)" and "allocating the incentive between (the early categorizers and the subsequent categorizer) (Montemer, Paragraph 0049, i.e., *The referral business transaction can be quite complex depending on the business relationship between the EDA Center and its partners. In one embodiment, the referral business transaction involves executing a Debit Transaction 90 on the Listing Owner's Account 91. Because Listing A1 is provided by Center A, Center A executes a Revenue Sharing Transaction 92. The amount debited from listing A1's owner account is split and added to the revenue accounts of both Center A and Center B*). Note that Center A and Center B shares revenues. Also, note that center A and B are categorizers of business listings as discussed above. And, early categorizer and subsequent categorizers are taught by Covington. As such, Montemer in view of Covington teach*

the limitation: "sharing the incentive among the early categorizer and the subsequent categorizer whose subsequent categorization is based on the categorization of the early categorizer and allocating the incentive between the early categorizers and the subsequent categorizer".

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method of Covington in view of Pundarika to add the feature of providing incentives to categorizers and sharing incentives among categorizers, as taught by Montemer, so that the resultant method would comprise providing incentive to one or more categorizers based on a number of users who have selected an item categorized by the one or more categorizers and sharing the incentive among the early categorizer and the subsequent categorizer whose subsequent categorization is based on the categorization of the early categorizer and allocating the incentive between (the early categorizers and the subsequent categorizer. One would have been motivated to do so in order to share resources of categorizers (Montemer, Paragraph 0014) and to share revenues of categorizers (Montemer, Paragraph 0049).

As per claim 4, Covington in view of Pundarika and further in view of Montemer teaches the limitation:

"further comprising ordering the displayed search results based on a user selectable order" (Covington Paragraph 0023, i.e., *In another embodiment of the invention the system can provide a brief abstract of each information record along with an estimated likelihood that the information record an is relevant to the inquiry*).

As per claim 5, Covington in view of Pundarika and further in view of Robinson and further in view of Petras teaches the limitation:

"wherein the step of categorizing comprises signing up on a website as a categorizer and categorizing a plurality of items corresponding to one or more of the plurality of predetermined categories" (Covington, Paragraph 0047, i.e., *the Database Reviewers may categorize the information in such manner that any search term concerning sexual harassment would yield the newly created information.*; and Paragraph 0047, i.e., *In one embodiment of the invention, Database Reviewer adds additional categories and structures to the proposed database prior to adding the new information to the database* Covington Paragraph 0060, i.e., *Site Constructor installs this template on the author's workstation or computer and provides the author with a form to complete that includes basic information about the document. The author can be, for example, the Database Manager. The template prompts the author for information regarding: the title (document title, short title, document filename), name or names of the author, sources of information, document summary or abstract, related content, document keywords to assist the system in identifying the document for future searches, and the subject expiration date, if any;* Paragraph 0069, i.e., *These files contain functionality such as: determining user permissions to view a page, making calls to databases to retrieve and store information, determine special user based customization of the web page, and any other functionality the page may contain;* Paragraph 0073, i.e., *Examples of these types of support files are navigational*

functionality, **determining user permissions**, activity logging information, and special user based customizations).

As per claim 6, Covington in view of Pundarika and further in view of Montemer teaches the limitation:

"further comprising charging a fee for initiating the search for the one or more items" (Covington Paragraph 0017, i.e., *a User can be an employee of the customer, and the customer can be the **subscribing party***).

As per claim 14, Covington in view of Pundarika and further in view of Montemer teaches the limitations:

"wherein at least one of the plurality of predetermined categories relates to books" (Pundarika, Paragraph 0017 i.e., *books*).

As per claim 15, Official Note is taken that reviewing/categorizing web pages is notoriously well known in the art.

As per claim 19, Covington in view of Pundarika and further in view of Montemer teaches the limitations:

"accessing a web site by an authorized categorizer" (Covington, Paragraph 0047, i.e., *the Database Reviewers may categorize the information in such manner that any*

search term concerning sexual harassment would yield the newly created information.;

Paragraph 0069, i.e., *These files contain functionality such as: **determining user permissions** to view a page, making calls to databases to retrieve and store information, determine special user based customization of the web page, and any other functionality the page may contain;* Paragraph 0073, i.e., *Examples of these types of support files are navigational functionality, **determining user permissions**, activity logging information, and special user based customizations);*

"identifying the item to be categorized" (Covington Paragraph 0047, i.e., *the Database Reviewers may categorize the information in such manner that any search term concerning sexual harassment would yield the newly created information.;*);

"displaying a category from a plurality of predetermined categories in a database accessible by the web site" (Covington, Paragraph 0045, i.e., *the Database Manager can, either directly or through an agent or software, prepare a **Web site containing the relevant information and post the Web site** in the database enabling User's access;* Covington, Paragraph 0047, i.e., *The Database Reviewer can also provide additional information which would correlate the record with other pertinent records. For example, the Database Reviewer or the Database Manager can identify similarly **categorized** or otherwise related information records that may be of interest to the User based on the User's inquiry. Accordingly, such techniques as cross referencing other information records or **providing hypertext links** to other information records can be used to advise the User of additional information);*

"selecting a category from the displayed plurality of predetermined categories"
(Pundarika, Paragraph 0017, i.e., *Illustration 1 schematically depicts an embodiment of a method for simulating experiencing a store in three dimensions on a two-dimensional computer screen*; Pundarika, Paragraph 0017, i.e., *For example, the hundreds of books the visitor sees as he enters a bricks and mortar store are **organized into categories** and groupings, making it easy for **the visitor to go straight to the section** he wants to browse. The visitor can discover the books as he browses through the shelves and can thumb through the books he picks up from the shelves*) "by authorized categorizer"
(Covington, Paragraph 0047, i.e., *the Database Reviewers may categorize the information in such manner that any search term concerning sexual harassment would yield the newly created information.*; and Paragraph 0047, i.e., *In one embodiment of the invention, Database Reviewer **adds additional categories** and structures to the proposed database prior to adding the new information to the database*; Paragraph 0069, i.e., *These files contain functionality such as: **determining user permissions** to view a page, making calls to databases to retrieve and store information, determine special user based customization of the web page, and any other functionality the page may contain*; Paragraph 0073, i.e., *Examples of these types of support files are navigational functionality, **determining user permissions**, activity logging information, and special user based customizations* and Pundarika Paragraph 0043);

"displaying cost and incentive for the authorized categorizer for the selected category" (Montemer, Paragraph 0049, i.e., *The referral business transaction can be quite complex depending on the business relationship between the EDA Center and its*

*partners. In one embodiment, the referral business transaction involves executing a Debit Transaction 90 on the Listing Owner's Account 91. Because Listing A1 is provided by Center A, Center A executes a **Revenue Sharing Transaction 92**. The amount debited from listing A1's owner account is **split and added to the revenue accounts of both Center A and Center B**; According to Figure 4 of Montemer, which depicts "Revenue Sharing Transaction 92", each EDA center (either A or B or C) would be show such a revenue sharing transaction which comprises how much a referring center would be paid (cost) and how much the referred center would be paid (incentive), which is described in more details in paragraph 0049 of Montemer as cited herewith);*

*"applying the selected category to the identified item by the authorized categorizer" (Covington, Paragraph 0047, i.e., *the Database Reviewers may categorize the information in such manner that any search term concerning sexual harassment would yield the newly created information*); and*

*"storing the identified item, the applied category, and the authorized categorizer in the database" (Covington Figure 3 and Paragraph 0014, i.e., *Fig. 3 is a process diagram for updating one or more databases according to one embodiment of the invention*).*

"providing incentives to one or more categorizers based on number of users who have selected an item categorized by one or more categorizers" (Montemer as applied to claim 1 above).

"sharing the incentives among an early categorizer and a subsequent categorizer whose subsequent categorization is based on the categorization of the early categorizer and allocating the incentive between the early categorizer and the subsequent categorizer" (Montemer in view of Covington as applied to and discussed in details with respect to claim 1 above).

As per claim 20, Covington in view of Pundarika and further in view of Montemer teaches the limitations:

"further comprising signing up on a web site as an authorized user" (Covington Paragraph 0017, i.e., *a User can be an employee of the customer, and the customer can be the **subscribing party***; Paragraph 0020, i.e., *the system would retrieve the User's profile from a database*).

As per claim 21, Covington in view of Pundarika and further in view of Montemer teaches the limitations:

"selecting a category from a plurality of predetermined categories" (Pundarika, Paragraph 0017, i.e., *Illustration 1 schematically depicts an embodiment of a method for simulating experiencing a store in three dimensions on a two-dimensional computer screen*; Pundarika, Paragraph 0017, i.e., *For example, the hundreds of books the visitor sees as he enters a bricks and mortar store are **organized into categories** and groupings, making it easy for **the visitor to go straight to the section he wants to***

browse. The visitor can discover the books as he browses through the shelves and can thumb through the books he picks up from the shelves);

*"selecting a categorizer from a plurality of categorizers" (Pundarika, Paragraph 0043, i.e., **Alternately, a list of reviewers organized in various ways (geographic, male/female, types of books reviewed etc.) is displayed (step 550) and the visitor's choice of the specific reviewer is collected (step 560);** Note that geographic, male/female, type of books reviewed are "categories" from which the user selects a category and then a specific viewer; Pundarika, Paragraph 0043, i.e., FIG. 5 describes an embodiment of the invention that includes a method for **allowing selection of book reviews by specific reviewers. The selected book is displayed (step 510) and a choice of available book reviews is displayed as in FIG. 4. The information on the user's selection of a desired review is collected (step 520) and the audio of the selected review is streamed or otherwise transmitted to the user machine (step 530). The portion of viewing other books reviewed by the same reviewer is displayed (step 540) which, if selected, moves the process on to step 570. Alternately, a list of reviewers organized in various ways (geographic, male/female, types of books reviewed etc.) is displayed (step 550) and the visitor's choice of the specific reviewer is collected (step 560));** and*

*"initiating a search for an item in the computer network corresponding to the selected category and the selected categorizer" (Pundarika, Paragraph 0043, i.e., **Alternately, a list of reviewers organized in various ways (geographic, male/female, types of books reviewed etc.) is displayed (step 550) and the visitor's choice of the specific reviewer is collected (step 560)).***

As per claim 22, Covington in view of Pundarika and further in view of Montemer teaches the limitations:

"further comprising displaying results of the search on a display" (Covington Paragraph 0029, i.e., *Returning to Fig. 1, if after viewing the potential responses to the inquiry, the user is still not satisfied*).

Claim 23 is rejected on the same basis as claim 4.

As per claim 28, Covington in view of Pundarika and further in view of Montemer and further in view of Robinson and further in view of Petras teaches the limitations:

"means for storing a plurality of predetermined categories, wherein the plurality of predetermined categories include taste and style" (Covington Paragraph 0047 and Pundarika Paragraph 0017 as applied to claim 1, and Pundarika, Paragraph 0082, *In one embodiment, our virtual bookstore includes sections (or even the whole store) configured to display the books that are of particular interest to any particular viewer. The music, the decorations etc. can all be customized to suit the tastes of an individual, facilitating a very good experience for the user. For example, if someone is interested in 19th century English literature, a special room can be created with books on this topic. Many of these books may normally not be found in a general bookstore. Aspects of this*

embodiment are described in FIG. 21; Note that, in the system of Pundarika, "sections" that display books are "categories");

"means for categorizing a plurality of pre-existing items corresponding to one or more of the plurality of predetermined categories, by a plurality of categorizers, respectively" (Covington Paragraph 0047) "wherein a subsequent categorizer is capable of categorizing an item already categorized by an early categorizer" (Covington, Paragraph 0044, i.e., *In another embodiment, after reviewing the existing information, the Database Manager can decide to **replace** the existing information with new information. In this embodiment, the Database Manager can **update** the database by **removing** the out-dated information and replacing it with new data. In a further embodiment, the Database Manager may determine that the information in the database should be **revised** in parts to reflect the certain changes in the existing information. In this embodiment, the Database Manager can take the necessary steps to **revise** the available information accordingly. In yet another embodiment, the Database Managers may elect to include the new information in a new database;* Covington, Paragraph 0046, i.e., *Should the proposed information fail to satisfy formal requirements, the Database Manager can either **revise** the proposed information or return the same to the Database Manager for revision. This is reflected by the broken line between steps 3400 and 3300; Covington, Paragraph 0047, i.e., Database Manager can then categorize any information, new or old. Categorization enables a User to retrieve the information from the database once it is added to the database; Here,*

database reviewer is the early categorizer and database manager is the subsequent categorizer);

“means for displaying at least a portion of the stored plurality of predetermined categories” (Covington, Paragraph 0045, i.e., *the Database Manager can, either directly or through an agent or software, prepare a **Web site containing the relevant information and post the Web site** in the database enabling User's access;*

Covington, Paragraph 0047, i.e., *The Database Reviewer can also provide additional information which would correlate the record with other pertinent records. For example, the Database Reviewer or the Database Manager can identify similarly **categorized** or otherwise related information records that may be of interest to the User based on the User's inquiry. Accordingly, such techniques as cross referencing other information records or **providing hypertext links** to other information records can be used to advise the User of additional information;* Pundarika, Paragraph 0017, i.e., *Illustration 1 schematically depicts an embodiment of a method for simulating experiencing a store in three dimensions on a two-dimensional computer screen;* Pundarika, Paragraph 0017, i.e., *For example, the hundreds of books the visitor sees as he enters a bricks and mortar store are **organized into categories** and groupings, making it easy for **the visitor to go straight to the section** he wants to browse. The visitor can discover the books as he browses through the shelves and can thumb through the books he picks up from the shelves; ;* Pundarika, Figure 5 and Paragraph 0043);

“means for selecting a category from the displayed predetermined categories by a user” (Pundarika, Paragraph 0017, i.e., *Illustration 1 schematically depicts an*

*embodiment of a method for simulating experiencing a store in three dimensions on a two-dimensional computer screen; Pundarika, Paragraph 0017, i.e., For example, the hundreds of books the visitor sees as he enters a bricks and mortar store are **organized into categories** and groupings, making it easy for **the visitor to go straight to the section** he wants to browse. The visitor can discover the books as he browses through the shelves and can thumb through the books he picks up from the shelves);*

*“means for displaying categorizers for the selected category” (Pundarika, Paragraph 0043, i.e., Alternately, a list of reviewers organized in various ways (geographic, male/female, types of books reviewed etc.) is displayed (step 550) and the visitor's choice of the specific reviewer is collected (step 560)); Note that geographic, male/female, type of books reviewed are “categories” from which the user selects a category and then selects views or a specific viewer; Pundarika, Paragraph 0043, i.e., FIG. 5 describes an embodiment of the invention that includes a method for **allowing selection of book reviews by specific reviewers**. The selected book is displayed (step 510) and a choice of available book reviews is displayed as in FIG. 4. The information on the user's selection of a desired review is collected (step 520) and the audio of the selected review is streamed or otherwise transmitted to the user machine (step 530). The portion of viewing other books reviewed by the same reviewer is displayed (step 540) which, if selected, moves the process on to step 570. Alternately, a list of reviewers organized in various ways (**geographic, male/female, types of books reviewed etc.**) is displayed (step 550) and the visitor's choice of the specific reviewer is collected (step 560));*

"means for selecting a categorizer from the displayed categorizers by the user"
(Pundarika, Paragraph 0043, i.e., FIG. 5 describes an embodiment of the invention that includes a method for **allowing selection of book reviews by specific reviewers**. The selected book is displayed (step 510) and a choice of available book reviews is displayed as in FIG. 4. The information on the user's selection of a desired review is collected (step 520) and the audio of the selected review is streamed or otherwise transmitted to the user machine (step 530). The portion of viewing other books reviewed by the same reviewer is displayed (step 540) which, if selected, moves the process on to step 570. Alternately, a list of reviewers organized in various ways (**geographic, male/female, types of books reviewed etc.**) is displayed (step 550) and the visitor's choice of the specific reviewer is collected (step 560));

"means for initiating a search for one or more of pre-existing items in the computer network based on the selected category and the selected categorizer as search parameters" (Pundarika, Paragraph 0043, i.e., FIG. 5 describes an embodiment of the invention that includes a method for **allowing selection of book reviews by specific reviewers**. The selected book is displayed (step 510) and a choice of available book reviews is displayed as in FIG. 4. The information on the user's selection of a desired review is collected (step 520) and the audio of the selected review is streamed or otherwise transmitted to the user machine (step 530). The portion of viewing other books reviewed by the same reviewer is displayed (step 540) which, if selected, moves the process on to step 570. **Alternately**, a list of reviewers organized in various ways

(geographic, male/female, types of books reviewed etc.) is displayed (step 550) and the visitor's choice of the specific reviewer is collected (step 560));

"means for displaying results of the search" (Covington Paragraph 0023);

"means for selecting one or more of the displayed results for more detail description of the selected item" (Covington, Paragraph 0023);

"means for providing incentives to one or more categorizers based on number of users who have selected an item categorized by one or more categorizers" (Montemer, Paragraph 0028, i.e., *each of the shared directory listing*; Montemer, Figure 1, i.e., *shared directories*; Montemer Paragraph 0034, i.e., *FIG. 2 illustrates how the directory listings of an individual EDA Center can be pooled together with the listings from other EDA Center entities or EDA nodes. Then the books reviewed by the specific reviewer are brought in from the database and displayed in categorized shelves (similar to displaying the results of a book search) (step 570). All the services associated with the books are linked to these books in the shelves (step 580), whereupon the user can browse any of these books and listen to the reviews by the selected reviewer or by other reviewers that he may choose*; Montemer, Paragraph 0032, i.e., *The final result of an EDA inquiry is a telephone referral. In the referral, the inquiry call is transferred to the selected advertised directory listing referral number and a referral business transaction is initiated*. Montemer, Figure 3 and Paragraph 0042, i.e., *Tables 62, 64, and 66 show the top 3 listings (sorted by paid referral amount) for the keyword Chinese restaurant for each EDA center. In other words, table 62 shows that listing A1 is first at*

\$1.20, followed by listing A2 at \$0.93 and A3 at \$0.75. Similarly table 64 shows Center B's top 3 to be B1 at \$0.97, B2 at \$0.87 and B3 at \$0.77. Table 66 shows Center C's list as C1 at \$1.10, C2 at \$0.83 and C3 at \$0.72; Montemer, Paragraph 0048, i.e., a *Referral Business Transaction 88* and Paragraph 0049, i.e., a *Debit Transaction 90 on the Listing Owner's account*; These disclosures of Montemer teaches (1) EDA centers as depicted in Figure 2 and their directory listings in Figure 3 are "categorizers" because said centers categorizes business phone numbers according to the type of business and (2) said centers (categorizers) are paid on per referral basis for each call from a customer (referral). Therefore, said centers (categorizers) are paid based on the number of customers (users) who use their respective listings (business categories));

"means for sharing the incentives among an early categorizer and a subsequent categorizer whose subsequent categorization is based on the categorization of the early categorizer and allocating the incentive between the early categorizer and the subsequent categorizer" (Montemer, Paragraph 0049, i.e., *The referral business transaction can be quite complex depending on the business relationship between the EDA Center and its partners. In one embodiment, the referral business transaction involves executing a Debit Transaction 90 on the Listing Owner's Account 91. Because Listing A1 is provided by Center A, Center A executes a Revenue Sharing Transaction 92. The amount debited from listing A1's owner account is split and added to the revenue accounts of both Center A and Center B*). Note that Center A and Center B shares revenues. Also, note that center A and B are categorizers of business listings as discussed above. And, early categorizer and subsequent

categorizers are taught by Covington. As such, Montemer in view of Covington teach the limitation: "sharing the incentive among the early categorizer and the subsequent categorizer whose subsequent categorization is based on the categorization of the early categorizer and allocating the incentive between the early categorizers and the subsequent categorizer").

Claim 29 is essentially the same as claim 2 except that it set forth the claimed invention as a system for identifying content in a computer network rather than a method performed by one or more of computers for identifying content in a computer network and rejected for the same reasons as applied hereinabove.

Claim 31 is essentially the same as claim 4 except that it set forth the claimed invention as a system for identifying content in a computer network rather than a method performed by one or more of computers for identifying content in a computer network and rejected for the same reasons as applied hereinabove.

Claim 32 is essentially the same as claim 5 except that it set forth the claimed invention as a system for identifying content in a computer network rather than a method performed by one or more of computers for identifying content in a computer network and rejected for the same reasons as applied hereinabove.

Claim 33 is essentially the same as claim 6 except that it set forth the claimed invention as a system for identifying content in a computer network rather than a method performed by one or more of computers for identifying content in a computer network and rejected for the same reasons as applied hereinabove.

Claim 38 is essentially the same as claim 19 except that it set forth the claimed invention as a system for categorizing an item to be search by a user in a computer network rather than a method for categorizing an item to be searched by a user in a computer network and rejected for the same reasons as applied hereinabove.

Claim 39 is essentially the same as claim 20 except that it set forth the claimed invention as a system for categorizing an item to be searched by a user in a computer network rather than a method for categorizing an item to be searched by a user in a computer network and rejected for the same reasons as applied hereinabove.

Claim 40 is essentially the same as claim 21 except that it set forth the claimed invention as a system for categorizing an item to be searched by a user in a computer network rather than a method for categorizing an item to be searched by a user in a computer network and rejected for the same reasons as applied hereinabove.

8. Claims 2, 7- 9, 12, 13, 17, 25- 27, and 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Covington in view of Pundarika and further in view of Montemer and further in view of Robinson (hereinafter "Robinson", U.S. Patent Number 7072846).

As per claim 2, Covington in view of Pundarika and further in view of Montemer does not explicitly teach the limitation "wherein the plurality of predetermined categories include taste and style".

On the other hand, Robinson teaches the limitation:

"wherein the plurality of predetermined categories include taste and style (Robinson, Column 1 Lines 46-47, *the tastes of a cluster*; Column 8 Lines 54-63, i.e., *These descriptions, in various embodiments take the form of text descriptors such as "Jazz, with a focus on old -**style** Dixieland", **categories** such as "Jazz", "Garage Rock", etc).*

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method of Covington in view of Pundarika and further in view of Montemer to add the feature of having categories based on taste and style, as taught by Robinson, so that, in the resultant method, categories would included taste and style. One would have been motivated to do so in order to *enable consumers more efficiently find artists and entertainers they will enjoy* (Robinson, Column 1 Lines 25-30).

As per claim 7, Covington in view of Pundarika and further in view of Montemer and further in view of teaches the limitation:

"wherein the number of users who have selected an item categorized by the one or more categorizers is a function of the number of users who have selected the item and have come back to the search results within a substantially short time" (Robinson, Column 3 Lines 49-55, i.e., *In some embodiments means are provided so the administrators are paid by users for access to their clusters. In various embodiments, **these payments are one-time-only, per time period (such as monthly) or per access. Reviewers can be paid similarly for access to reviews written by that reviewer. Credit card payment mechanisms or other techniques such as micropayments can be used.*** Also see Covington Paragraph 0025, i.e., *a log of all questions asked by a particular user features **they** have accessed previously can be compiled by the system).*

As per claim 8, Covington in view of Pundarika and further in view of Montemer and further in view of Robinson teaches the limitation:

"further comprising compensating the categorizer based on the number of users who have selected an item categorized by the categorizer" (Robinson, Column 3 Lines 49-55, i.e., *Reviewers can be paid similarly for access to reviews written by that reviewer*; See also Montemer, Paragraphs 0034, 0032, 0042, and 0048 as applied to claim 1).

As per claim 9, Covington in view of Pundarika and further in view of Montemer and further in view of Robinson teaches the limitation:

“further comprising positioning the categorizer on a favorable screen position of a display screen, based on the assigned points to the categorizer” (Robinson, Column 3 Lines 14-25, i.e., *The system can use these ratings to determine the quality of a reviewer in general and/or the degree to which each individual user likes a particular reviewer. These factors can be used together with the similarity data, or in some embodiments, without it, to determine ordering of reviews*).

As per claim 12, Covington in view of Pundarika and further in view of Montemer and further in view of Robinson teaches the limitation:

“wherein at least one of the plurality of predetermined categories relates to music” (Robinson Column 1 Lines 56-61, i.e., *will focus on music applications*).

As per claim 13, Covington in view of Pundarika and further in view of Montemer and further in view of Robinson teaches the limitation:

“wherein at least one of the plurality of predetermined categories relates to movies” (Robinson Column 1 Lines 56-61, i.e., *fields of writings and movies*).

As per claim 17, Covington in view of Pundarika and further in view of Montemer and further in view of Robinson teaches the limitation:

“wherein at least one of the plurality of predetermined categories relates to product or services” (Robinson Column 1 Lines 25-30, i.e., *Online services based on this invention will enable artists and entertainers to more efficiently find the consumers*).

Claim 25 is rejected on the same basis as claim 7.

Claim 26 is rejected on the same basis as claim 8.

Claim 27 is rejected on the same basis as claim 9.

As per claim 34, Covington in view of Pundarika and further in view of Montemer and further in view of Robinson teaches the limitations:

“further comprising assigning points to a categorizer based on number of users who have searched an item categorized by the categorizer” (Robinson Column 3 Lines 49-55, i.e., *Reviewers can be paid similarly for access to reviews written by that reviewer*). Points based on number of users who searched an item categorized by the categorizer/reviewer are inherent in this disclosure.

Claim 35 is essentially the same as claim 8 except that it set forth the claimed invention as a system for identifying content in a computer network rather than a method performed by one or more of computers for identifying content in a computer network and rejected for the same reasons as applied hereinabove.

Claim 36 is essentially the same as claim 9 except that it set forth the claimed invention as a system for identifying content in a computer network rather than a method performed by one or more of computers for identifying content in a computer network and rejected for the same reasons as applied hereinabove.

Claim 37 is essentially the same as claim 17 except that it set forth the claimed invention as a system for identifying content in a computer network rather than a method performed by one or more of computers for identifying content in a computer network and rejected for the same reasons as applied hereinabove.

9. Claim 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Covington in view of Pundarika and further in view of Montemer and further in view of Pinsonnault et al., (hereinafter "Pinsonnault" , U.S. Patent Application Publication Number 2004/0193480).

As per claim 10, Covington in view of Pundarika and further in view of Montemer as applied to claim 1 teaches the limitations: "incentives for a given user selection".

However, Covington in view of Pundarika and further in view of Montemer does not explicitly teach that "the sum of all incentives for a given user's selection is equal to one".

One the other hand, Pinsonnault teaches a sum of all being rolled up as one (Pinsonnault, paragraph 0095, i.e., *A user may utilize the "roll up" function when applying any of the tools or procedures to a sum of all of the selected partnerships, as if the composite was one total partner*).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method of Covington in view of Pundarika and further in view of Montemer to add feature of employing a sum which is equal to one after being all constituents are rolled up, as taught by Pinsonnault, so that, in the resultant method, the sum of all incentives for a given user's selection will be equal to one. One would have been motivated to do so in order to be able to view variance reports (Pinsonnault, paragraph 0095).

As per claim 11, Covington in view of Pundarika and further in view of Montemer and further in view of Pinsonnault teaches the limitations:

"wherein the list of categorizers displayed on the display screen is ordered based on one or more of a respective categorizer's overall popularity within the selected category, a respective categorizer's recent popularity within the selected category, a

respective categorizer's overall popularity within a broader subject area than the selected category, a respective categorizer's recent popularity within a broader subject area than the selected category, a respective categorizer's reliability within a user-specified subject area, and a respective categorizer's reliability within a broad subject area" (Robinson Column 3 Lines 14-25, i.e., *The system can use these ratings to determine the quality of a reviewer in general and/or the degree to which each individual user likes a particular reviewer*).

10. Claims 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Covington in view of Pundarika and further in view of Montemer and further in view of Edwards et al., (hereinafter "Edwards", U.S. Patent Application Publication Number 2002/0038430).

As per claim 16, Covington in view of Pundarika and further in view of Montemer as applied to claim 1 teaches the limitation: "at least one of the plurality of predetermined categories" (Covington, Paragraph 0010, i.e., *Next the system associates the inquiry with one or more predefined categories and provides one more possible responses to the inquiry based on the available information*). Covington in view of Pundarika and further in view of Montemer does not explicitly teach the limitation: "relates to security or intelligence content".

Edwards teaches the limitation:

"relates to security or intelligence content" (Edwards, Paragraph 0016, i.e., *The analyst reviews the new intelligence data*).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to add security of intelligence content as an category to the categories taught by Covington in view of Pundarika and further in view of Montemer so that in the resultant method at least one of the plurality of predetermined categories relates to security or intelligence content. One would have been motivated to do so in order to *monitor security threats* (Edwards Paragraph 0004).

11. Claims 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Covington in view of Pundarika and further in view of Montemer and further in view of Robinson and further in view of Gonzales (hereinafter "Gonzales", U.S. Patent Application Publication Number 2002/0152087).

As per claim 18, Covington in view of Pundarika and further in view of Montemer and further in view of Robinson and further in view of Gonzales as applied to claim 17 does not explicitly teach the limitation: "wherein the product or the service is one or more of art, craft, wine, cheese, beer, plumbing, air conditioning, auto repair, haircutting, legal service, and medical service".

Gonzales teaches the limitation:

"wherein the product or the service is one or more of art, craft, wine, cheese, beer, plumbing, air conditioning, auto repair, haircutting, legal service, and medical service" (Gonzales, Paragraph 0106).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to add products and services taught by Gonzales to the method of Covington in view of Pundarika and further in view of Montemer and further in view of Robinson so that the resultant method would comprise said products and services. One would have been motivated to do so in order to provide expert reviews on products on the Internet, which is well known in the art.

12. Claims 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Covington in view of Pundarika and further in view of Montemer and further in view of Boyd (hereinafter "Boyd", U.S. Patent Application Publication Number 2002/0194049).

As per claim 24, Covington in view of Pundarika and further in view of Montemer does not explicitly teach the limitation: "comprising charging the categorizer a fee for categorizing the item".

Boyd teaches the limitation"

"comprising charging the categorizer a fee for categorizing the item" (Boyd, Paragraph 0052, i.e. *charging users with a fee for posting to post an invitation and/or review*). Note that the method and system of Boyd teaches charging a fee to users for posting something on a service web site just as the claimed invention charges categorizers for posting their categories.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to add the feature of charging a fee for posting on a service web site as taught by Boyd to the method of Covington in view of Pundarika and further in

view of Montemer so that the resultant would comprise charging the categorizer a fee for categorizing the item. One would have been motivated to do so in order to generating revenues from parties who post service/products on the web, which is well known in the art.

(10) Response to Arguments

Discussion of the Rejection of claims 1-2, 4-29, and 31-40

Appellant argued that *"I do not dispute that Pinpointer uses many common components. In fact, a key aspect of my argument is that the shared components are so common and so simple that they are equivalents of bolts, rivets, and sheet metal in mechanical inventions. The examiner stated that it would be obvious how to combine these elements, if someone wanted to do so - and he is right, up to a point. It is obvious in the same sense that it would have be obvious how to use bolts or rivets to fasten sheet metal in the process of constructing, say, an airplane or steamship. But first, someone has to design the airplane or steamship. This is the factor that the examiner has not taken into account"* (Appellant's argument, page 27, fifth paragraph through seventh paragraph), and *"such a contention would not only ignore the question of where the motivation to make such a modification would come from, it would also run into a number of practical issues involving implementation"* (Appellant's argument, page 32 fourth paragraph).

In response, it is pointed out that it would have been obvious to a person of ordinary skill in the art to modify the method of Covington to add the features of "selecting a category from the displayed predetermined categories by a user",

"displaying categorizers for the selected category", "selecting a categorizer from the displayed categorizers by the user", and "initiating a search for one or more pre-existing items in the computer network based on the selected category and the selected categorizer as search parameters", as taught by Pundarika, to the method of Covington so that the resultant method would comprise the steps of "selecting a category from the displayed predetermined categories by a user", "displaying categorizers for the selected category", "selecting a categorizer from the displayed categorizers by the user", and "initiating a search for one or more pre-existing items in the computer network based on the selected category and the selected categorizer as search parameters". One would have been motivated to do so in order to allow selection of reviews by specific reviewers (Pundarika, Paragraph 0043). Additionally, it would have been obvious to a person of ordinary skill in the art to modify the method of Covington in view of Pundarika to add the feature of providing incentives to categorizers and sharing incentives among categorizers, as taught by Montemer, so that the resultant method would comprise providing incentive to one or more categorizers based on a number of users who have selected an item categorized by the one or more categorizers and sharing the incentive among the early categorizer and the subsequent categorizer whose subsequent categorization is based on the categorization of the early categorizer and allocating the incentive between (the early categorizers and the subsequent categorizer. One would have been motivated to do so in order to share resources of categorizers (Montemer, Paragraph 0014) and to share revenues of categorizers (Montemer, Paragraph 0049).

Applicant argued that *"the section of Covington's application that the examiner cites, paragraphs 0045 and 0047 (see office action, page 7), does not describe displaying categories at all"*(Applicant's argument, page 29 third paragraph).

In response, it is pointed out that Covington teaches "displaying categories" in paragraphs 0045 and 0047 as follows: Paragraph 0045, i.e., *the Database Manager can, either directly or through an agent or software, prepare **a Web site containing the relevant information and post the Web site** in the database enabling User's access;* Paragraph 0047, i.e., *The Database Reviewer can also provide additional information which would correlate the record with other pertinent records. For example, the Database Reviewer or the Database Manager can identify similarly **categorized** or otherwise related information records that may be of interest to the User based on the User's inquiry. Accordingly, such techniques as cross referencing other information records or **providing hypertext links** to other information records can be used to advise the User of additional information". Note that posting a web site containing relevant information for user access teaches "displaying relevant information (i.e., categories) to the user".*

Appellant also argued that *"nothing either explicit or implicit in Covington's description suggests that Database Manager and Database Receiver might ever make separate categories of a content item"* (Appellant's argument, page 29 last paragraph).

In response, it is pointed out that Covington teaches "categorizing a plurality of pre-existing items corresponding to one or more of the plurality of predetermined categories, by a plurality of categorizers, respectively" (Covington Paragraph 0047, i.e.,

the Database Reviewers may categorize the information in such manner that any search term concerning sexual harassment would yield the newly created information.;

*and Covington Paragraph 0047, i.e., In one embodiment of the invention, Database Reviewer **adds additional categories** and structures to the proposed database prior to adding the new information to the database) "wherein a subsequent categorizer is capable of categorizing an item already categorized by an early categorizer" (Covington, Paragraph 0044, i.e., In another embodiment, after reviewing the existing information, the Database Manager can decide to **replace** the existing information with new information. In this embodiment, the Database Manager can **update** the database by **removing** the out-dated information and replacing it with new data. In a further embodiment, the Database Manager may determine that the information in the database should be **revised** in parts to reflect the certain changes in the existing information. In this embodiment, the Database Manager can take the necessary steps to **revise** the available information accordingly. In yet another embodiment, the Database Managers may elect to include the new information in a new database;*

*Covington, Paragraph 0046, i.e., Should the proposed information fail to satisfy formal requirements, the Database Manager can either **revise** the proposed information or return the same to the Database Manager for revision. This is reflected by the broken line between steps 3400 and 3300; Covington, Paragraph 0047, i.e., Database Manager can then categorize any information, new or old. Categorization enables a User to retrieve the information from the database once it is added to the database; Here, database reviewer is the early categorizer and database manager is the subsequent*

categorizer). This disclosure of Covington clearly teaches creating separate categories of content.

Appellant also argued that *"Montemer has nothing at all to say about handling such an eventuality"* (Appellant's argument, page 36 third paragraph) and *"The absence of prior art showing how tow categorizers might share credit for categorizing the same item in the same way appears to render the last sub-item within my claim 1 unique. This would seem to clear the way for allowance of the claim as a whole"* (Appellant's argument, page 43, fourth paragraph).

In response, it is pointed out that Montemer teaches sharing incentives/revenue in paragraph 0049 as *"The referral business transaction can be quite complex depending on the business relationship between the EDA Center and its partners. In one embodiment, the referral business transaction involves executing a Debit Transaction 90 on the Listing Owner's Account 91. Because Listing A1 is provided by Center A, Center A executes a Revenue Sharing Transaction 92. The amount debited from listing A1's owner account is **split and added to the revenue accounts of both Center A and Center B**"*. Note that Center A and Center B shares revenues. Also, note that center A and B are categorizers of business listings as discussed above. And, early categorizer and subsequent categorizers are taught by Covington. As such, Montemer in view of Covington teach the limitation: "sharing the incentive among the early categorizer and the subsequent categorizer whose subsequent categorization is based on the categorization of the early categorizer and allocating the incentive between the early categorizers and the subsequent categorizer".

Referring to rejection of claims 7 and 25 under 35 U.S.C. §112, Appellant argued that *"I agree with the examiner that the claim of tallying users who return to the search results page after a "substantially short" period time is vague and indefinite. I did not understand why my former attorney thought it would solve the problem of the original wording, "approximately short." I acquiesced to the new verbiage only in the belief that it had been discussed previously in the phone interview and found acceptable, for reasons not immediately clear to a layman such as myself."* (Applicant's argument, page 49 second paragraph).

In response, it is pointed that Examiner assumes that said phone interview in question refers to the phone interview initiated by the former attorney on January 8, 2008. However, Appellant is directed to the summary of said phone interview which does not state any discussion related to the claim language of either "approximately short" or "substantially short" with the former attorney and that said phone interview summary clearly states that no agreement was reached.

In view of the above, the examiner contends that all limitations as recited in the claims have been addressed. For the above reasons, Examiner believed that rejection of the last office action was proper.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the Examiner in the Related Appeals and Interferences section of this examiner's answer.

Respectfully Submitted,

/dennis myint/

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Examiner
AU-2162

August 20, 2008

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